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Crl.OP.No.31461 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2022

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.31461 of 2022

1.V.Sivasakthi

2.Karthika

... Petitioners

Vs.

1.The Commissioner of Police,
Salem City,
Salem District.

2.The Assistant Commissioner of Police,
Salem Town Range,
Salem City,
Salem District.

3.The Inspector of Police,
CCB, Salem City Police,
Salem District.

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to direct the second respondent not to harass the petitioners without due process of law.

For Petitioners

: Mr.K.Kalaikovan

For Respondents

: Mr.S.Santhosh
Government Advocate(Crl.side)



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ORDER

This Criminal Original Petition has been filed to direct the second respondent not to harass the petitioners.

2. The learned counsel for the petitioners would submit that the first petitioner had given a complaint against one Sugavanam and six others. On the basis of the complaint, FIR has been registered in Crime No.10 of 2020 for the offence under Sections 420 and 506(i) of IPC. In this case, final report has not been filed. Therefore, the petitioner had filed Crl.O.P.No.15837 of 2022 before this Court seeking for a direction to file the final report. This Court on 11.07.2022, had disposed the petition by directing the respondent to file the final report, within a period of one month. Later, one Prakash gave a complaint against these petitioners alleging that the petitioners had borrowed a sum of Rs.1,25,000/- from him and till date, they have not returned the said amount. It is a false complaint and on the basis of the false complaint, summons have been issued for enquiry. Hence, this petition.



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3. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that on receiving the complaint from one Prakash with regard to money transaction, enquiry has been conducted in C.No.511/ACP/STR/Salem City/and the same is pending for continuation of enquiry since the petitioner has not cooperated for enquiry.

4. Heard the learned Counsel for the petitioner and learned learned Government Advocate (Crl.Side) for the respondent police.

5. It is the grievance of the petitioner that the second respondent has been harassing him under the guise of an enquiry/investigation and hence, has invoked the inherent powers of this Court under Section 482 of Cr.P.C.

6. In the present case in hand, the petitioner has complained of harassment by the police based on a complaint and seek for this Court's intervention by way of a direction. The term 'harassment' by itself has a very wide meaning and hence, what could be harassment to the petitioner may not be the same to the police officer.



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7. In order to circumvent such situations, the following guidelines are

issued:

a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.

b) The second respondent police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant

c) The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

d) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

e) The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in **Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]** shall be strictly adhered to.



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WEB COPY 8. With the above observations and direction, the Criminal Original Petition stands disposed of.

20.12.2022

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

shk

To

- 1.The Commissioner of Police,
Salem City,
Salem District.
- 2.The Assistant Commissioner of Police,
Salem Town Range,
Salem City,
Salem District.
- 3.The Inspector of Police,
CCB, Salem City Police,
Salem District.
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN,J.

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